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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,473	07/20/2000	Takatoshi Mochizuki	44084-467	3081

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McDermott Will & Emery
600 13th Street NW
Washington, DC 20005-3096

EXAMINER

SHERALI, ISHRAT I

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/620,473

Applicant(s)

MOCHIZUKI ET AL.

Examiner

Sherali Ishrat

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Response to Amendment/Arguments

1. This action is in response to amendment/arguments filed on 4/13/04.

Applicant is reminded that drawings are objected to under 37 CFR 1.83 (a).

The drawings fail to illustrate features of the invention specified in claims 2-9 and 12-20.

Proper correction in the drawings are required.

Regarding claim 21, based on the amendment and arguments, rejection under 35 USC §101 is withdrawn.

Applicant's arguments are fully considered, however they are not persuasive with respect to art rejection. See the remarks section for detailed discussion.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4-5, 7, 9, 11-12, 14-15, 17, 19 and 21 are rejected under 35 USC § 102 (e) as being anticipated by Fujimoto et al. (US 6,035,074).

Regarding claim 1, Fujimoto discloses extracting feature relating to the image color of the image from the image data (See Fujimoto, col. 7, lines 3-6, Fujimoto shows

Art Unit: 2621

“acquiring a color image including human object image, and comparing color data in the in the entire image” and in col. 9, lines 10-12, Fujimoto shows “recognition color memory stores a plurality of face recognition color which have tints close to the skin colors of the face image to be recognized” i.e Fujimoto shows extracting [acquiring] feature relating to the image color which is tint because Fujimoto shows comparing acquired color image data [tint] with plurality of face recognition color which have tints close to the skin colors of the face image to be recognized and Fujimoto recognized face based on the face color [tint].

determining a frame color based on the feature extracted (See Fujimoto col. 9, lines 42-45, Fujimoto shows “a frame defining a face image cutting area is displayed on color crystal display” and col. 9, lines 18-22, Fujimoto shows “face image data is subjected to complementary color data converting process and then displayed in reverse on color liquid crystal display”. Therefore Fujimoto shows rectangular frame is displayed on the liquid crystal in color which is reverse color of the face image therefore Fujimoto shows determining a frame color [reverse color of the face image] based on the feature extracted [color of the face image]).

generating a frame of the frame color determined around the image and synthesizing a product image (See Fujimoto, 9, lines 59-64, Fujimoto shows “forming a rectangular frame and rectangular frame is superimposed on the image data and displayed “ i.e Fujimoto is generating a frame of the frame color determined around the image and synthesizing a product image).

Art Unit: 2621

Regarding claim 2, 12 Fujimoto discloses extracting a color system having the largest surface area (See Fujimoto, col. 9, lines 8-9, "the larges of the recognized color is extracted).

Regarding claims 4, 9, 14, 19 Fujimoto discloses setting the frame color corresponding to a complement of the color system (See Fujimoto, col. 4, lines 60-63, Fujimoto shows "display the recognized face image section in reverse on a complementary basis" i.e Fujimoto shows setting the frame color corresponding to a complement of the color system).

Regarding claim 5, 15 Fujimoto discloses extracting a color system having the largest surface area and having the next largest surface area (See Fujimoto, col. 9, lines 8-9, "the larges of the recognized color is extracted and col. 12, lines 5-8, Fujimoto shows "when selection button is touched face image selection section detects a face image having the second largest area which is displayed" i.e by detecting and displaying the second largest area Fujimoto shows extracting a color system having the having the next largest surface area).

Regarding claim 7, 17 Fujimoto discloses extracting a color which is most conspicuous within the image (See Fujimoto, col. 9, lines 8-9, shows extracting color system [skin color/tint of face image] having largest area i.e Fujimoto shows by extracting the larges of the recognized color , Fujimoto is extracting a color which is most conspicuous within the image).

Regarding claim 11, 21 Fujimoto discloses extracting a feature quantity of a color of an image (See Fujimoto, col. 9, lines 8-9, and col. 12, lines 5-8, Fujimoto

Art Unit: 2621

shows extracting largest and second largest area of the color i.e Fujimoto shows extracting a feature [color] quantity [largest area] of color image).

determining a frame color based on the feature extracted (See Fujimoto, 9, lines 59-64, Fujimoto shows "forming a rectangular frame and rectangular frame is superimposed on the image data and displayed "and col. 4, lines 60-63, Fujimoto shows "display the recognized face image section in reverse on a complementary basis" i.e Fujimoto shows determining a frame color based on the feature extracted [reverse of color extracted]);

generating a frame of the determined color determined around the periphery image and combining with image (See Fujimoto, 9, lines 59-64, Fujimoto shows "forming a rectangular frame and rectangular frame is superimposed on the image data and displayed "and col. 4, lines 60-63, Fujimoto shows "display the recognized face image section in reverse on a complementary basis" i.e Fujimoto shows generating a frame of the determined color determined around the periphery image and combining [superimposed]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2621

5. Claims 3, 6, 8, 10, 13, 16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 6035074).

Regarding claims 3, 8, 13 and 18 Fujimoto has not explicitly shown frame color to color belonging to the color extracted. However in col. 4, lines 60-63, Fujimoto shows preferably display recognized face image on the in reverse on a complementary color basis i.e Fujimoto has a choice of display recognized face image on the display in reverse/complementary color or the same color extracted. Therefore examiner consider frame color to color belonging to the color extracted is a design choice and does carry any patentable.

Regarding claims 6 and 16 Fujimoto has not explicitly shown frame color to be an intermediate color of the color extracted. Fujimoto has not explicitly shown frame color to color belonging to the color extracted. However in col. 4, lines 60-63, Fujimoto shows preferably display recognized face image on the in reverse on a complementary color basis i.e Fujimoto has a choice of display recognized face image on the display in reverse/complementary color or intermediate color. Therefore examiner consider frame color to be an intermediate color of the color extracted is a design choice and does carry any patentable.

Regarding claims 10 and 20 Fujimoto has not explicitly shown determining frame color according to a selection of a user from among the plurality of suggested frame color. However in col. 4, lines 60-63, Fujimoto shows preferably display recognized face image on the display in reverse on a complementary color basis i.e

Art Unit: 2621

Fujimoto has a choice /selection of display recognized face image on the display in reverse/complementary color or some other color related to face image. Therefore it would be obvious in the system of Fujimoto to determining frame color according to a selection of a user from among the plurality of suggested frame color because a such a system provides user's preference of decoration for displaying the recognized face image.

Remarks

6. In the amendment filed on 4/13/04, applicant argued that:

There is no disclosure or suggestion in Fujimoto that the frame image has a color based upon the extracted feature relating to image color of the image. While the cutting area defined by the frame may have color based on a feature extracted from the image, this can not be said to be the case for the frame.

Examiner disagree with applicant argument that Fujimoto reference has no disclosure or suggestion that the frame image has a color based upon the extracted feature relating to image color of the image. First of all as suggested by applicant that cutting area defined by the frame may have color based on a feature extracted from the image. The cutting area itself is a frame around the face image which is displayed on color crystal display as shown by Fujimoto on col. 9, lines 42-45. Fujimoto on col. 9, lines 18-22, shows "face image data is subjected to complementary color data converting process and then displayed in reverse on color liquid crystal display". Therefore Fujimoto shows rectangular frame is displayed on the liquid crystal in color which is reverse color of the face image therefore Fujimoto shows determining a frame

Art Unit: 2621

color [reverse color of the face image] based on the feature extracted [color of the face image]).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

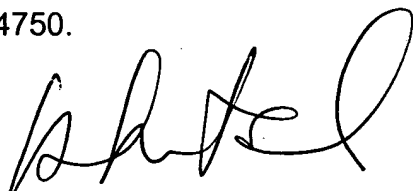
Communication

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 703-308-9589. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Boudreau can be reached on 703-305-4706. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2621

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4750.

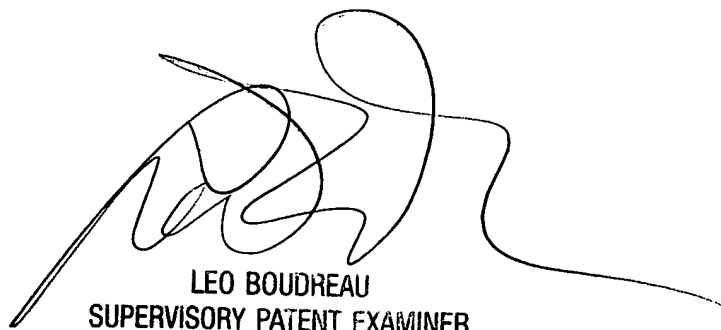


Ishrat Sherali

Patent Examiner

Group Art Unit 2621

July 6, 2004



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